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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,802	12/01/2003	Robert H. Murray	MSD02	5548

7590

01/10/2006

Robert H. Murray,
52 Manor Hill Drive
Fairport, NY 14450

EXAMINER

LOWEN, ALYSSA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.	Applicant(s)	
	10/724,802	MURRAY ET AL.	
	Examiner	Art Unit	
	Alyssa M. Lowen	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/1/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I claims 1-6 in the reply filed on 12/22/05 is acknowledged.
2. Claims 7-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/22/05.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 12/1/03 is in compliance with the provisions of 37 CFR 1.97 and 37 CFR 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

Priority

4. Applicant's claim for the benefit of a prior-filed application (60/431116) under 35 U.S.C. 119(e) is acknowledged. Applicant has complied with all conditions for receiving the benefit of an earlier filing date.

Specification

5. The disclosure is objected to because of the following informalities: The word "choking" was misspelled on page 3 line 11 and on page 4 line 29. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the American Family Physician article and Prater (5383806). The article discloses a safe toy balloon having a repulsive taste agent such as a bitter-tasting substance applied to a designated exterior surface of the balloon body, which would exclude the neck or mouthpiece area of the balloon (paragraph 6). The balloon described by the article discloses the basic inventive concept, substantially as claimed, with the exception of expressly stating that the balloon is an inflatable elastomeric member having an exterior surface, an interior surface, a neck portion and a body portion. However, Prater shows an elastomeric balloon having an exterior surface (5), an interior surface (4), a neck and body portions (Fig. 1) showing these features to be old in the balloon art. It would have been obvious to one of ordinary skill at the time of invention from the teaching of Prater that the balloon takes this configuration in order to be easily manufactured.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the American Family Physician article and Prater as applied to claims 1 and 3 above, and further in view of Minkoff (4005038). The balloon as disclosed by the article and Prater discloses the basic inventive concept, substantially as claimed, with the exception of the bittering agent comprising denatonium benzoate. However, Minkoff discloses the use of denatonium benzoate to coat surfaces that could be harmful to a child (abstract). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Minkoff to have the bittering agent be denatonium benzoate in order to

impart a bitter taste to a hazardous object, which would teach a child to avoid eating the object.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML


EUGENE KIM
PRIMARY EXAMINER